

**AGREEMENT
BETWEEN
THE REPUBLIC OF TURKEY AND
THE REPUBLIC OF FINLAND
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME
THE GOVERNMENT OF THE REPUBLIC OF TURKEY
AND
THE GOVERNMENT OF THE REPUBLIC OF FINLAND**

Desiring to conclude an agreement for the avoidance of double taxation with respect to taxes on income,

HAVE AGREED AS FOLLOWS:

**Article 1
PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

**Article 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are:

a) in Turkey:

- i) the income tax (gelir vergisi); and
- ii) the corporation tax (kurumlar vergisi) ;
(hereinafter referred to as "Turkish tax");

b) in Finland:

- i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);
- ii) the corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);
- iii) the communal tax (kunnallisvero; kommunalskatten);
- iv) the church tax (kirkollisvero; kyrkoskatten);
- v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst) and
- vi) the tax withheld at source from non-residents' income (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);

(hereinafter referred to as "Finnish tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- a) i) the term "Turkey" means the Turkish territory including territorial sea and air space above it, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law;
- ii) the term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its subsoil and of the superjacent waters may be exercised;
- b) the terms "a Contracting State" and "the other Contracting State" mean Turkey or Finland as the context requires;
- c) the term "person" includes an individual, a company and any other body of persons;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "place of incorporation" means the legal head office of a company registered under the Turkish Code of Commerce or the place of registration of a company under Finnish law, as the case may be;
- f) the term "national" in relation to a Contracting State, means:
 - i) any individual possessing the nationality or citizenship of that Contracting State; and
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

h) the term "competent authority" means:

- i) in Turkey, the Minister of Finance or his authorised representative; and
 - ii) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;
- i) the term "international traffic" means any transport by a ship, an aircraft or a road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any statutory body or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which it has been incorporated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities continue for a period of more than six months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture (including the breeding and cultivation of fish) and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a

distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction will be allowed in respect of participations to the expenses and losses of the head office or other permanent establishments situated abroad and likewise, the amounts paid by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, interests, commissions or other similar payments.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, AIR AND ROAD TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned State claimed to be profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is

subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. Profits of a company which is resident of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated, but the rate of tax so charged shall not exceed:

- a) 5 per cent of the remaining amount provided that such profits are exempt from tax in the Contracting State in which the company is a resident;
- b) 15 per cent of the remaining amount in all other cases.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Subject to the provisions of paragraph 4 of this Article, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the interest in respect of a loan or credit made, guaranteed or insured for the purposes of promoting export by the Finnish Export Credit or the FINNVERA or similar Turkish public entities the objective of which are to promote the export;

b) 10 per cent of the gross amount of the interest if the interest is derived by a bank;

c) 15 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in:

a) Finland and paid to the Government of Turkey or to the Central Bank of Turkey (Türkiye Cumhuriyet Merkez Bankası) shall be exempted from Finnish tax;

b) Turkey and paid to the Government of Finland or to the Bank of Finland (Suomen Pankki) shall be exempted from Turkish tax.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income treated as income from money lent by the laws, relating to tax, of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the

excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and recordings for radio and television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, industrial, commercial or scientific equipment.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base, in connection with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to

the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Gains derived by a resident of a Contracting State from the alienation of ships, aircraft or road vehicle operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road vehicle, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights in a company of whose assets more than 50 per cent consist, directly or indirectly, of immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident. However, the capital gains mentioned in the foregoing sentence and derived from the other Contracting State, may be taxed in the other Contracting State if the time period does not exceed one year between acquisition and alienation.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- a) the individual has a fixed base regularly available to him in that other State for the purpose of performing those services or activities; or

- b) the individual is present in that other State for the purpose of performing those services or activities for a period or periods amounting in the aggregate to 183 days or more in any continuous period of 12 months.

In such circumstances, only so much of the income as is attributable to that fixed base or is derived from the services or activities performed during the individual's presence in that other State, as the case may be, may be taxed in that other State.

2. Income derived by an enterprise of a Contracting State in respect of professional services or other activities of a similar character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- a) the enterprise has a permanent establishment in that other State through which the services or activities are performed; or
- b) the period or periods during which the services or activities are performed exceed in the aggregate 183 days in any continuous period of 12 months.

In such circumstances only so much of the income as is attributable to that permanent establishment or to the services or activities performed in that other State, as the case may be, may be taxed in that other State. In either case, the enterprise may elect to be taxed in that other State in respect of such income in accordance with the provisions of Article 7 of this Agreement as if the income were attributable to a permanent establishment of the enterprise situated in that other State. This election shall not affect the right of other State to impose a withholding tax on such income.

3. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants and other activities requiring specific professional skill.

Article 15

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18

PENSIONS

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, any pension paid by, or out of funds created by, a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority, or any pension paid and other payments made under the social security legislation of a Contracting State shall be taxable only in that State. However, such pensions and other payments shall be taxable only in the Contracting State of which the individual is a resident if he is a national of that State.

Article 19

GOVERNMENT SERVICE

1.a) Salaries, wages and other similar remuneration, paid by a Contracting State or a statutory body or a local authority thereof to an individual in respect of services rendered to that State or body or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the Contracting State of which the individual is a resident if the services are rendered in that State and the individual:

i) is a national of that State; or

ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 15, 16 and 17 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a statutory body or a local authority thereof.

Article 20

STUDENTS AND TRAINEES

1. Payments which a student, or an apprentice or business, technical, agricultural or forestry trainee, who is or was immediately before visiting a Contracting State a

resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. A student at a university or other institution for higher education in a Contracting State, or an apprentice or business, technical, agricultural or forestry trainee, who is or was immediately before visiting the other Contracting State a resident of the first-mentioned State and who is present in the other Contracting State for a continuous period not exceeding 183 days, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

Article 21

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Double taxation for the residents of Turkey shall be eliminated as follows:

a) Subject to the provisions of the laws of Turkey regarding the allowance as a credit against Turkish tax of tax payable in a territory outside Turkey (as

they may be amended from time to time without changing the general principles hereof), Finnish tax payable under the laws of Finland and in accordance with this Agreement in respect of income (including profits and chargeable gains) derived by a resident of Turkey from sources within Finland shall be allowed as a deduction from the Turkish tax on such income. Such deduction, however, shall not exceed the amount of Turkish tax, as computed before the deduction is made, attributable to such income.

- b) Where in accordance with any provision of the Agreement income derived by a resident of Turkey is exempt from tax in Turkey, Turkey may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Subject to the provisions of Finnish law regarding the elimination of international double taxation (which shall not affect the general principle hereof), double taxation shall be eliminated in Finland as follows:

- a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Turkey, Finland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the Finnish tax of that person, an amount equal to the Turkish tax paid under Turkish law and in accordance with the Agreement, as computed by reference to the same income by reference to which the Finnish tax is computed.
- b) Dividends paid by a company being a resident of Turkey to a company which is a resident of Finland and which controls directly at least 10 per cent of the voting power in the company paying the dividends shall be exempt from Finnish tax.
- c) Where in accordance with any provision of the Agreement income derived by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on the remaining income of such person, take into account the exempted income.
- d) For the purposes of sub-paragraph a), the term "tax, on income paid in Turkey" shall be deemed to include any amount of Turkish tax which would have been payable under Turkish taxation law but for any reduction or exemption of Turkish tax granted under the provisions concerning special incentive measures to promote economic development in Turkey.

Notwithstanding the preceding sentence, the tax on income paid in Turkey shall be calculated,

- i) in the case of dividends referred to in sub-paragraph b) of paragraph 2 of Article 10, at a rate of 15 percent;

ii) in the case of interest referred to in sub-paragraph a) of paragraph 2 of Article 11, at a rate of 5 percent, in the case of interest referred to in sub-paragraph b) of paragraph 2 of Article 11, at a rate of 10 per cent and in the case of interest referred to in sub-paragraph c) of paragraph 2 of Article 11, at a rate of 15 per cent;

iii) in the case of royalties and other payments referred to in paragraph 2 of Article 12, at a rate of 10 per cent.

However, if the tax rates under Turkish taxation law applicable to dividends, interest and royalties derived by persons who are not residents of Turkey are reduced below those mentioned in this sub-paragraph, these lower rates shall apply for the purposes of this sub-paragraph.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Subject to the provisions of paragraph 4 of Article 10, the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. These provisions shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions

for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. The provisions of this Article shall apply only to the taxes which are covered by Article 2.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be

- a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

- b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to carry out measures which would be contrary to public policy (ordre public);
- c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channels the completion of the procedures required by its domestic law for the bringing into force of this Agreement. The Agreement shall enter into force thirty days after the date of the later of the notifications and its provisions shall have effect:

- a) in Turkey, for taxes with respect to every taxable period beginning on or after the first day of January of the year following that of entry into force of the Agreement;

b) in Finland:

- i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- ii) in respect of other taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

2. "The Agreement between the Republic of Turkey and the Republic of Finland for the Avoidance of Double Taxation With Respect to Taxes on Income", signed in Ankara on 09 May 1986, (hereinafter referred to as "the 1986 Agreement") shall cease to have effect from the date on which this Agreement becomes effective in accordance with the provisions of paragraph 1. The 1986 Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this paragraph.

Article 29 **TERMINATION**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

- a) in Turkey, for taxes with respect to every taxable period beginning on or after the first day of January of the year following that in which the notice is given;
- b) in Finland:
 - i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;
 - ii) in respect of other taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF, the undersigned duly authorized hereto, have signed this Agreement.

Done in duplicate at İstanbul, this 6th day of October 2009, in the Turkish, Finnish and English languages, all three texts being equally authentic, in the case of divergence of interpretation the English text shall prevail.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY**

Recep Tayyip ERDOĞAN
Prime Minister

**FOR THE GOVERNMENT OF
THE REPUBLIC OF FINLAND**

Matti VANHANEN
Prime Minister

PROTOCOL

At the moment of the signing of the Agreement between the Republic of Turkey and the Republic of Finland for the avoidance of double taxation with respect to taxes on income the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

1. With reference to Article 7, paragraph 1.

It is understood that where an enterprise of a Contracting State has a permanent establishment in the other State and the enterprise

- a) effects sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment, or
- b) carries on other business activities in that other State of the same or similar kind as those effected in that permanent establishment;

the sales and the business activities shall be taxed in that other Contracting State as part of the permanent establishment's profits if it is proved that such sales or activities have been effected through the permanent establishment; this taxation cannot be excluded by artificial sales arrangements.

2. With reference to Article 10, paragraph 3.

It is understood that the term "dividend" in the case of Turkey shall also include income derived from an investment fund and investment trust.

3. With reference to Articles 12 and 13.

It is understood that in the case of any payment received as a consideration for the sale of the property as meant in paragraph 3 of Article 12, the provisions of Article 12 shall apply, unless it is proved that the payment in question is a payment for a genuine alienation of the said property. In such case, the provisions of Article 13 shall apply.

4. With reference to Article 15, paragraph 2.

It is understood that paragraph 2 of Article 15 shall not apply to remuneration derived by a resident of a Contracting State ("the employee"), and paid by or on behalf of an employer who is a resident of that State in respect of an employment exercised in the other Contracting State where:

- a) the employee renders services in the course of that employment to a person other than the employer who, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and
- b) the employer is not responsible for the outcome of the work performed by the recipient.

5. With reference to Articles 4, 18 and 19.

It is understood that the term "statutory body" means:

- a) in the case of Turkey
 - (i) the Central Bank of Turkey (Türkiye Cumhuriyeti Merkez Bankası);
 - (ii) the obligatory Turkish social insurance institutions; and
 - (iii) universities and other similar institutions for higher education;

b) in the case of Finland

- (i) the Bank of Finland (Suomen Pankki);
- (ii) the Social Insurance Institution (Kansaneläkelaitos); and
- (iii) the University of Helsinki (Helsingin yliopisto).

For the purposes of Articles 18 and 19 the term “statutory body” includes,

in the case of Turkey: the Presidency of Religious Affairs; and

in the case of Finland: the Evangelical-Lutheran and Orthodox Churches and the local communities thereof.

6. With reference to Article 22, paragraph 2, subparagraph d).

The provisions of subparagraph d) of paragraph 2 of Article 22 shall apply only for the first five years for which the Agreement is effective.

7. With reference to Article 24, paragraph 2.

It is understood that with respect to paragraph 2 of Article 24 the taxpayer must in the case of Turkey claim the refund resulting from such mutual agreement within a period of one year after the tax administration has notified the taxpayer of the result of the mutual agreement.

IN WITNESS WHEREOF, the undersigned duly authorized hereto, have signed this Protocol.

Done in duplicate at İstanbul, this 6th day of October 2009, in the Turkish, Finnish and English languages, all three texts being equally authentic, in the case of divergence of interpretation the English text shall prevail.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF TURKEY**

**Recep Tayyip ERDOĞAN
Prime Minister**

**FOR THE GOVERNMENT OF
THE REPUBLIC OF FINLAND**

**Matti VANHANEN
Prime Minister**



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VERBAL NOTE

The Embassy of Finland presents its compliments to the Ministry of Foreign Affairs of Turkey and has the honour to refer to the Agreement between the Republic of Finland and the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income (DTA), signed in Istanbul on 6 October 2009, and to the Note ANK7050-27, Note 2010/EIGY/190113 and Note 2010/EIGY/410589.

The Embassy has by the Note ANK7050-27 notified the Ministry of Foreign Affairs of Turkey that the Finnish language text contains two below-specified technical errors, and due to these errors the Finnish language text does not fully correspond with the prevailing English language text. The Ministry responded to the mentioned Note by the Note 2010/EIGY/190113, in which the Ministry replied that the errors should be corrected.

The corrections to the Finnish language text proposed by the Embassy are the following:

- 1) The last sentence of Article 14 paragraph 1 in the English language text (DTA) reads: *"In such circumstances, [...] performed during the individual's presence in that other State, as the case may be, may be taxed in that other State."* In the Finnish language text the aforementioned sentence reads: *"Tässä toisessa valtiossa voidaan silloin verottaa vain siitä tulon osasta, joka on luettava kuuluvaksi tähän kiinteään paikkaan tai joka saadaan ammatin tai toiminnan harjoittamisesta aikana, jolloin luonnollisesti henkilö oleskelee tässä toisessa valtiossa."* In order to correct the technical error in the Finnish language text, the words **luonnollisesti henkilö** (naturally person) should be replaced with the words **luonnollinen henkilö** (natural person).

After the proposed correction the last sentence of paragraph 1, Article 14, shall read in the Finnish language: *Tässä toisessa valtiossa voidaan silloin verottaa vain siitä tulon osasta, joka on luettava kuuluvaksi tähän kiinteään paikkaan tai joka saadaan ammatin tai toiminnan harjoittamisesta aikana, jolloin luonnollinen henkilö oleskelee tässä toisessa valtiossa.*

- 2) The last sentence of the paragraph 5 of the Protocol in the English language text reads as follows: *"For the purposes of Articles 18 and 19 the term "statutory body" includes, in the case of Turkey: the Presidency of Religious Affairs; and in the case of Finland: the Evangelical-Lutheran and Orthodox Churches and the local communities thereof."* In the Finnish language text the same sentence reads: *"Artiklojen 18 ja 19 osalta "julksisyhteisö" käsittää, Turkin osalta: uskonnolliset laitokset; ja Suomen osalta: evankelis-luterilaisen ja ortodoksisen kirkon ja niiden paikallisyhteisöt."*

In order to make the language versions identical, the words **uskonnolliset laitokset** (the religious establishments) in the Finnish language text should be replaced with the words **uskonnollisten asioiden puheenjohtajisto** (the Presidency of Religious Affairs).

After the proposed correction the last sentence of paragraph 5 of the Protocol shall read in the Finnish language: *Artiklojen 18 ja 19 osalta "julksisyhteisö" käsittää, Turkin osalta: uskonnollisten asioiden puheenjohtajisto; ja Suomen osalta: evankelis-luterilaisen ja ortodoksisen kirkon ja niiden paikallisyhteisöt.*

A consolidated version of the text of the Agreement in Finnish and in English where the changes are indicated in bold and underlined shall be attached to this Note, as well as the clean version of the Agreement.

If these corrections as such are acceptable to Turkey, in order to complete the exchange of notes in accordance with customary international law, the Embassy kindly requests that the Ministry acknowledge the receipt of this note and that the Ministry respond with the following text included in their note:

"The Ministry of Foreign Affairs of Turkey hereby confirm that the exchange of notes in accordance with customary international law between the two countries constitute the exchanging of instruments setting out the corrections they have agreed to make to the Agreement between the Republic of Finland and the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income (DTA), signed at Istanbul on October 6, 2009."

The Embassy of Finland avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurance of its highest consideration.

September 2, 2010

Annex: Corrected version of the agreement in Finnish

Ministry of Foreign Affairs of Turkey